

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: IV. E.

From: Wayne D. Houle, PE, Director of Engineering

Action ☒

Discussion ☐

Date: June 4, 2013

Information ☐

Subject: Agreement With Nine Mile Creek Watershed District for Edina Centennial Lakes
Runoff Volume Reduction Plan

Action Requested:

Authorize Mayor to sign attached Cooperative Agreement between Nine Mile Creek Watershed District and the City of Edina for Edina Centennial Lakes Runoff Volume Reduction Plan.

Information / Background:

Attached is a cooperative agreement with Nine Mile Creek Watershed District for professional services with BARR Engineering Company for the concept development of the water resources component for the northerly Centennial Lakes drainage area. This project explores an opportunity for regional stormwater management planned in coordination with the promenade landscape feature and other potential developments within this drainage area.

The City's cost for this study is not to exceed \$20,000. This study will be funded through the Storm Water Utility Fund.

Attachments:

- Cooperative Agreement between Nine Mile Creek Watershed District and the City of Edina for Edina Centennial Lakes Runoff Volume Reduction Plan
- Work Plan – Edina Centennial Lakes Runoff Volume Reduction Plan

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COOPERATIVE AGREEMENT
Between the Nine Mile Creek Watershed District
and the City of Edina

Edina Centennial Lakes Runoff Volume Reduction Plan

This Agreement is made by and between the Nine Mile Creek Watershed District (NMCWD), a watershed district created pursuant to Minnesota Statutes Chapter 103D, and the City of Edina ("Edina"), a statutory city of the State of Minnesota.

Recitals and Statement of Purpose

WHEREAS the NMCWD has an approved Water Resources Management Plan pursuant to Minnesota Statutes Chapter 103B that includes goals of managing stormwater flows on site and improving water quality in Nine Mile Creek;

WHEREAS Edina has an approved Comprehensive Water Resource Management Plan that includes goals of managing stormwater to provide flood protection and clean water services, a Wellhead Protection Plan that includes the goals of managing pollution risk to the aquifers that provide domestic water supply, and a Storm Water Pollution Prevention Plan that includes goals of reducing pollutant discharge to local water bodies;

WHEREAS both the NMCWD and Edina pursue these goals through various programs including regulation of redevelopment and working with private property owners to incorporate innovative and effective stormwater management methods;

WHEREAS the NMCWD and Edina wish to explore the potential for use of such methods within the Centennial Lakes watershed and in conjunction with certain expected redevelopment activity within that watershed;

THEREFORE the NMCWD and Edina hereby enter into this legally binding agreement to undertake and jointly fund an engineering study for this purpose, according to the following terms.

AGREEMENT

1. The NMCWD will enter into a professional services agreement with Barr Engineering Company to perform the scope of services attached hereto as Exhibit A and incorporated herein ("Services").
2. Edina will have input into the Services through the structured meetings and review opportunities stated in Exhibit A. In addition, Edina may communicate with the NMCWD at any time regarding the Services. The NMCWD retains its discretion in directing the performance of the Services and administering the contract with Barr Engineering, subject to the approval of Edina, and will incorporate Edina's input and both the NMCWD and Edina have to agree on the acceptance of Barr Engineering's report. Any written communication between either party and Barr Engineering will be copied to the other party.
3. The NMCWD and Edina will facilitate Barr Engineering's performance of the Services by all means within their reasonable administrative capacity. If Barr Engineering requires entry onto public or private property for the purpose of the Services, Edina will use its good offices to assist in securing any necessary permissions and the parties will coordinate to afford Barr Engineering the use of their legal authorities to enter, as necessary and as they judge legally sound. The final report will acknowledge financial support from both the NMCWD and Edina.
4. The NMCWD will provide for the professional services contract to identify Edina as an intended beneficiary of the Services; to extend duty of care, insurance and indemnification requirements to both the NMCWD and Edina; and to state that Edina and the NMCWD jointly share all rights to use of the final Barr Engineering report and any rights in the event of a breach of the contract by Barr Engineering.
5. Within 30 days of NMCWD invoicing, Edina will reimburse the NMCWD for one-half of amounts the NMCWD pays to Barr Engineering for the Services, up to an aggregate total of \$20,000. Edina will not withhold reimbursement to the NMCWD on the basis of dissatisfaction with the Services. If either party is dissatisfied with the Services, the parties will consult in good faith to resolve the dissatisfaction.
6. If the Services or the performance of this Agreement requires the sharing of data that is defined as not public under the Data Practices Act, Minnesota Statutes chapter 13 (DPA), the NMCWD and Edina will cooperate to preserve the classification of the data and otherwise conform to the DPA. If Edina receives a request for data pursuant to the DPA that may encompass data Edina possesses or has created as a result of this Agreement, it

will inform the NMCWD and transmit a copy of the request. If the request is addressed to the NMCWD, Edina will not provide any information or documents, but will direct the inquiry to the NMCWD. If the request is addressed to Edina, Edina will be responsible to determine whether it is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with the NMCWD before replying.

7. The official representatives of the parties with respect to this Agreement are as follows:

NMCWD:
Administrator
Nine Mile Creek Watershed District

Edina:
Director of Engineering

8. The parties will use the product of the Services in good faith to explore stormwater volume reduction opportunities, jointly and individually. However, nothing in this Agreement obligates either the NMCWD or Edina to any specific undertaking or any commitment of funds beyond the funding of the Services as set forth herein.

9. This Agreement is the complete and entire agreement between the parties relating to the subject matter hereof, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters. This Agreement may be amended only by a writing signed by both parties. This Agreement terminates on the completion of the Services and Edina's fulfillment of its reimbursement obligations hereunder.

IN WITNESS WHEREOF the parties have executed this Agreement.

NINE MILE CREEK WATERSHED DISTRICT
a political subdivision of the State of Minnesota

By _____
Its President

Dated: _____

APPROVED AS TO FORM
AND EXECUTION

By _____
District Counsel

CITY OF EDINA,
a statutory city

By _____
Its Mayor

Dated: _____

APPROVED AS TO FORM
AND EXECUTION

By _____
City Attorney